

Honorable Shauna L. Kerr – Justice Court Judge

Serving Summit County

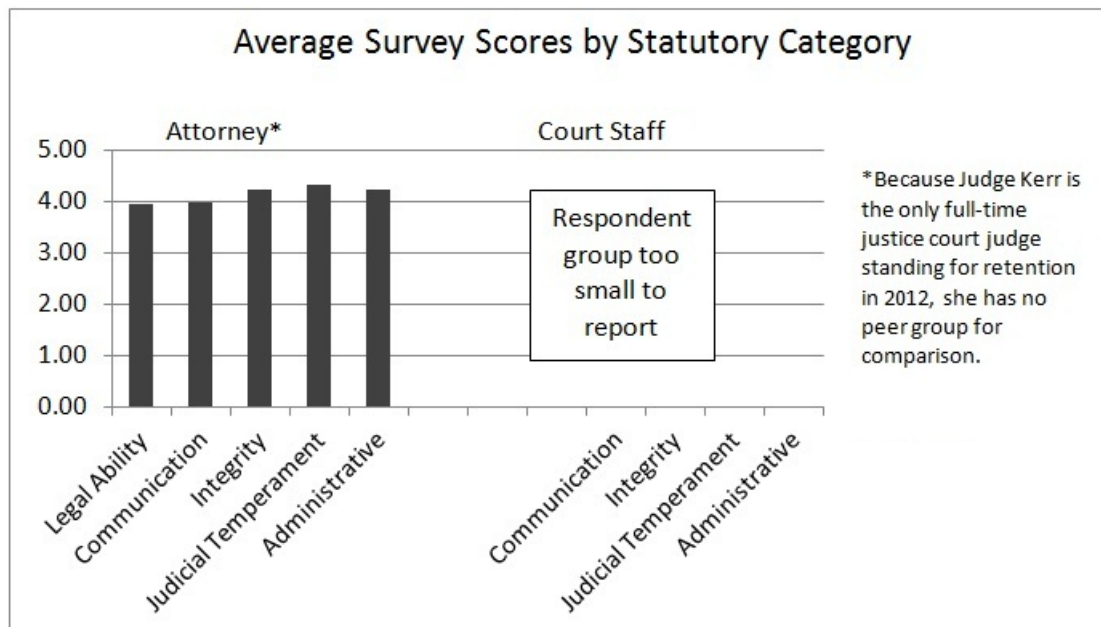


The commission recommends by a vote of 11 – 1
TO RETAIN Judge Shauna Kerr

In her two years on the bench, Judge Shauna Kerr has demonstrated growth in her office. Thirty-four of 35 attorneys (97%) who responded to the retention question recommended that Judge Kerr be retained in office. Attorneys commented that Judge Kerr is working hard to become fully skilled as a judge and is growing increasingly competent in her position. All courtroom observers responded positively about Judge Kerr. They particularly emphasized her organization and preparedness and her extreme care in ensuring that criminal defendants understand the proceedings. Judge Kerr showed enough indecision on three cases that she did not meet the minimum performance standard governing the timely issuance of opinions. In spite of that, her other strengths – and the vote of the attorneys and courtroom observers -- prompted the commission to recommend that she be retained.

The commission reviewed surveys and courtroom observation reports in addition to verifying that Judge Kerr has met all judicial education requirements and discipline standards established by the judicial branch.

Judge Shauna Kerr was appointed to the Summit County Justice Court in 2009. She received her Juris Doctorate degree from Pepperdine University School of Law in 1980, is a current member of the Utah State Bar, and was previously admitted to the California State Bar. Judge Kerr received her undergraduate degree from Utah State University in 1977. Prior to taking the bench, Judge Kerr worked as the Tooele City Attorney and as Assistant Park City Attorney. Judge Kerr has also served as an elected local government official at both the city and county level as a member of the Park City Council and the Summit County Commission.



Survey Overview

Attorneys, court staff and jurors were surveyed about the judge's performance. Survey categories included questions about the judge's legal ability, judicial temperament, integrity, communication skills, and administrative skills. Summarized results for all applicable respondent groups appear below. A judge must score a 3.0 on 80% of the individual questions to pass the minimum performance standard.

A. Attorney Survey Overview:

Total Respondents: 35

1. "Should this judge be retained?"

Response*	Number	Percent of Total
YES	34	97%
NO	1	3%

*0 Respondent(s) did not answer the retention question

2. Statutory Category Scores:

Attorney	Kerr
Legal Ability	3.94
Communication	4.00
Integrity	4.25
Judicial Temperament	4.33
Administrative	4.24

3. Average trials before this judge: 2.77

4. Area of primary practice:

Collections: 0 Domestic: 8 Criminal: 31 Civil: 12 Other: 3

B. Court Staff Survey Overview: Respondent group too small to report

C. Juror Survey Overview: Respondent group too small to report

Survey Scores

Attorney Survey Scores:

Below are listed: 1) the attorney survey questions; 2) a checkmark to show that the judge met or exceeded the statutory “pass” of 3.0, or an “x” to indicate the judge scored below 3.0 on that question; 3) the judge’s average score on each question. Because Judge Kerr is the only Justice Court Judge for the year 2012, there is no peer group to compare her scores to.

A judge must receive an average score of at least 3.0 on 80% of the questions to meet minimum performance standards.

Attorney Question	Statutory Pass: 3.0	Kerr
The Judge makes sound rulings.	✓	3.82
The judge properly applies the rules of civil procedure.	✓	3.74
The judge properly applies the rules of criminal procedure.	✓	3.92
The judge properly applies the rules of evidence.	✓	3.78
The judge's sentencing fits the offenses.	✓	4.17
The judge makes appropriate findings of facts.	✓	4.00
The judge appropriately applies the laws to the facts.	✓	3.98
The judge follows legal precedent.	✓	3.94
The judge only considers evidence in the record.	✓	3.76
The judge's written decisions are clear and logical.	✓	4.07
The judge's written opinions offer meaningful legal analysis.	✓	3.70
The judge was fair and impartial.	✓	4.07
The judge avoids impropriety and the appearance of impropriety.	✓	4.21
The judge avoids improper ex parte communications.	✓	4.26
The judge's behavior demonstrated equal treatment of all persons or classes of persons.	✓	4.37
The judge appears to consider both sides of an argument before rendering a decision.	✓	4.31
The judge holds attorneys accountable for inappropriate conduct.	✓	4.15
The judge's oral communication while in court is clear and logical.	✓	4.23
The judge promotes public trust and confidence in the courts through his or her conduct on the bench.	✓	4.52
The judge respects the time of the participants and understands the personal and financial costs they may be incurring.	✓	4.20
The judge is prepared for argument and hearings.	✓	4.16
The judge treats all attorneys with equal courtesy and respect.	✓	4.45
The judge rules in a timely manner.	✓	4.33
The judge realistically manages his or her calendar.	✓	4.41
The judge convened court without undue delay.	✓	3.98
The judge provides the parties due process; namely, advance notice of issues to be heard an adequate opportunity to prepare and a meaningful opportunity to be heard.	✓	4.24
The judge acts to ensure that linguistic/cultural differences or disabilities do not unfairly limit access to the justice system.	✓	4.48

Adjective Summary

Survey respondents were asked to select adjectives that best described the judge. Results are shown from each respondent group. The adjectives highlighted in green are “positive” adjectives, while those in red are “negative.”

S. Kerr	
Attorney	
Attentive	17
Calm	15
Confident	8
Considerate	22
Consistent	11
Intelligent	14
Knowledgeable	7
Patient	14
Polite	19
Receptive	12
Arrogant	0
Cantankerous	0
Defensive	0
Dismissive	1
Disrespectful	0
Flippant	0
Impatient	0
Indecisive	0
Rude	0

Positive	139
Negative	1
Positive	99%

REPORT OF COURTROOM OBSERVATIONS FOR JUDGE SHAUNA L. KERR

Five observers wrote 76 comments that were relevant to 16 of the 22 criteria. One observer reported that the judge was aware that a JPEC observer was present, and one observer reported that the judge was not aware that a JPEC observer was present (three did not comment).

Overview

WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none">• All observers were positive about Judge Kerr.• Observers particularly emphasized Judge Kerr's efficiency, organization and preparedness, her friendly demeanor and exceptional courtesy, and her extreme care in ensuring defendants' understood the proceedings.• Four observers reported that they would feel comfortable appearing before Judge Kerr (one did not comment).
MINORITY OBSERVATIONS	
ANOMALOUS COMMENTS	<ul style="list-style-type: none">• One observer would have preferred a less friendly manner, as this may take away from the seriousness of the offenses, and "friendly" and "judge" do not go together (see "Courtroom tone & atmosphere").

<i>Numerical ratings:</i>	<i>Observer 1</i>	<i>Observer 2</i>	<i>Observer 3</i>	<i>Observer 4</i>	<i>Observer 5</i>
Neutrality	5	4	4	5	4
Respect	5	5	5	5	4
Ability to earn trust	5	5	5	5	4
Skill at providing voice	4	4	4	5	4

Summary and *exemplar language* of five observers' comments

<i>RESPECTFUL BEHAVIORS</i>	
Listening & focus	One observer reported that Judge Kerr <i>listened with intensity</i> .
Well-prepared & efficient	All observers reported that Judge Kerr was <i>very efficient, extremely organized</i> , and ran a <i>professional well-ordered courtroom</i> . While her clerk was passing papers to the previous defendant, Judge was <i>calling the next case</i> . <i>She was well prepared for each case</i> , knowing in advance all previous charges and what had to be dealt with.
Respect for others' time	Two observers reported that Judge Kerr <i>was on time and kept the proceedings moving at a good pace</i> . Her good preparation meant there was never <i>downtime researching or finding information</i> .
Respectful behavior generally	One observer reported that Judge Kerr always used respectful language, including respectful greetings, and <i>when the names were difficult to pronounce, she asked for the proper pronunciation, and said "Thank you for the correction."</i> She made people feel they could ask for information without disapproval. She used the <i>right amount of praise or sternness</i> as appropriate.

RESPECTFUL TONE

Courtesy, politeness and patience	<p>Three observers reported that Judge Kerr is kind, pleasant, and cordial to all courtroom participants, and exhibits exceptional courtesy with everyone in court, and addresses everyone respectfully, using phrases such as, "Please come forward Ms X," "Do you have any questions on that sir?"</p> <p><i>Judge Kerr was always patient while waiting for an interpreter to speak to the defendant, then she explained something else, and then again wait patiently for the interpretation and the answer.</i></p>
Courtroom tone & atmosphere	<p>Two observers commented on the friendly atmosphere that Judge Kerr created in her courtroom.</p> <p><i>Before beginning, the judge explained how people would be called up...I think it gave everyone the idea of how to behave in the courtroom.</i></p> <p>One observer prefers a less friendly atmosphere: <i>I felt she was maybe a little too friendly in the demeanor displayed to each defendant. I'm seeking a fine line between serious versus "friendly" manner that may take away from the seriousness of the offenses. I can't give an example ... my sense is "friendly" and "judge" don't go together. It was a little off-putting in a judge.</i></p>
Body language	<p>Three observers commented positively on Judge Kerr's eye contact, and <i>a pleasant look on her face which was maintained for each case.</i> Judge Kerr's consistent demeanor and behavior <i>might have appeared mechanical if it were not for her body language which was very human.</i></p>

NEUTRALITY

Consistent and equal treatment	<p>Four observers reported that Judge Kerr's behavior in each case was highly consistent and impartial in all cases, and <i>considered all sides of each case.</i> One observer commented on the absence of any <i>change in facial expression or other body language to display favor or disfavor towards any of the defendants/players.</i></p> <p>One defendant mentioned that a mutual friend of the judge <i>said hello.</i> The observer noted that Judge Kerr was not influenced by this. <i>Judge Kerr said "Thank you" and moved on. I felt it must have been a little awkward for the judge but she handled it nicely and left it at that. She denied him and sentenced according to the law.</i></p>
Unbiased	<p>Two observers mentioned that Judge Kerr was unbiased in her rulings.</p> <p><i>The attorney asked the judge if she would like to see two checks to satisfy a fine. The judge very quickly responded that she never touches money in court.</i></p>
Acts with concern for individual needs	<p>Three observers reported a variety of examples indicating that Judge Kerr was <i>genuinely concerned</i> with the impact of her rulings on defendants. She demonstrated <i>understanding for the defendant's particular circumstances</i> and <i>showed creativity in applying the law</i> in order to look for the best action.</p> <p><i>Judge Kerr prioritized steps for the defendants, and put an emphasis on not delaying mental health/substance treatment because of any sentence/fine she might order.</i></p>
Expresses concern for the individual	<p>Three observers reported that Judge Kerr is genuinely involved in making sure people are helped modify their lives as a result of coming to court. She generously provided assistance to a visitor in locating information needed to assist a defendant. She always speaks supportively, e.g. <i>"I want you to succeed, looks like some obstacles, but you've been persistent."</i></p>
Unhurried and careful	<p>One observer reported that even though Judge Kerr handled cases smoothly and efficiently, she never rushed a case, or <i>hurried the defendant or his lawyer.</i></p>

VOICE

Considered voice	Three observers reported that Judge Kerr directly faced and attended closely to each defendant when stating their circumstances. <i>Judge Kerr welcomed defendants' questions, arguments, and documents, and restated each defendant's case and asked if she had understood it correctly/accurately.</i>
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COMMUNICATION

Communicates clearly	Three observers reported that Judge Kerr is a talented communicator, explaining clearly what has transpired and what are the next steps, and <i>reviewing and retelling facts for better comprehension, and in clear and deliberate language.</i>
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One observer noted she *was easily understood, and very importantly, used the microphone as it was intended.*

Ensures information understood	All observers reported that Judge Kerr went to great lengths and with <i>extreme care</i> to ensure that participants understood every implication of the proceedings. Judge Kerr repeated back what defendants said, and asked for their agreement that she had understood. She asked defendants to repeat back what she told them, frequently asking them if they had questions.
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The judge asked the defendant to repeat a long list of items back to her to assure that the defendant fully comprehended everything before she left court.

Her last question was "Okay, what are you supposed to do?" She gave him all the time he needed to make sure that he understood her orders.

Provides adequate explanations	All observers reported that Judge Kerr was knowledgeable about the rules of law, and always took sufficient time to explain her rulings. After she explained her rationale for one order, <i>the defendant seemed to clearly understand the reason for her decision.</i>
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Judge Kerr did explain why it required different sentencing and fines for the two cases that might have appeared to be the same or similar ... Judge Kerr took the time to explain to one woman the difference between an alcohol-restricted driver (the woman's charge) and a driver being cited for driving under the influence.

When explaining the obligation to do community service, the judge said,, "find something that you can do that's of interest to you and will use your expertise to give back to your community."
